

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1932-MWD-E **TCEQ ID:** RN101612521 **CASE NO.:** 35088
RESPONDENT NAME: City of Childress

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Airport Plant, located within the property boundaries of the Childress Municipal Airport, approximately four miles west of the intersection of U.S. Highways 287 and 82/63, Childress County

TYPE OF OPERATION: Wastewater treatment system

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 19, 2008. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable Cary Preston, Mayor, City of Childress, P.O. Box 1087, Childress, Texas 79201
 Mr. Jerry Cummings, City Manager, City of Childress, P.O. Box 1087, Childress, Texas 79201
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 3, 2007</p> <p>Date of NOV/NOE Relating to this Case: November 20, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to comply with the permitted effluent limitations. Specifically, the 30-day average effluent flow exceeded the permitted level of 0.232 million gallons per day ("MGD") for the following months: October 2006 (0.297 MGD); November 2006 (0.258 MGD); December 2006 (0.241 MGD); January 2007 (0.235 MGD); February 2007 (0.241 MGD); March 2007 (0.253 MGD); April 2007 (0.251 MGD); May 2007 (0.272 MGD); June 2007 (0.287 MGD); July 2007 (0.267 MGD); and August 2007 (0.277 MGD), respectively. In addition, the 5-day Biochemical Oxygen Demand levels exceeded the permitted limit of 100 milligrams per Liter ("mg/L") for February 2007 (117 mg/L) and March 2007 (107 mg/L) [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010076003, Interim Phase Effluent Limitations and Monitoring Requirements].</p> <p>2) Failed to calibrate the in-line effluent flow meter on an annual basis. Specifically, the in-line effluent flow meter has not been calibrated since the September 6, 2006 investigation [30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010076003, Monitoring Requirements No. 5].</p>	<p>Total Assessed: \$5,450</p> <p>Total Deferred: \$1,090 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,360</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, calibrate the in-line effluent flow meter in accordance with TPDES Permit No. WQ0010076003;</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010076003, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and</p> <p>c. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): WQ0010076003



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	26-Nov-2007	Screening	11-Dec-2007	EPA Due	
	PCW	11-Dec-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Childress		
Reg. Ent. Ref. No.	RN101612521		
Facility/Site Region	1-Amarillo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35088	No. of Violations	2
Docket No.	2007-1932-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Andrew Hunt
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$4,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **Subtotals 2, 3, & 7** \$450

Notes: An enhancement is recommended due to two written NOV's with same violations.

Culpability **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **Subtotal 5** \$0

Before NOV NOV to EDP RP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts \$1,616
Approx. Cost of Compliance \$10,500

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$4,950

OTHER FACTORS AS JUSTICE MAY REQUIRE

10%

Adjustment \$500

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement due to recovery of avoided costs for the violations.

Final Penalty Amount \$5,450

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$5,450

DEFERRAL

20%

Adjustment -\$1,090

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY \$4,360

Screening Date 11-Dec-2007

Docket No. 2007-1932-MWD-E

PCW

Respondent City of Childress

Policy Revision 2 (September 2002)

Case ID No. 35088

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101612521

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an interided audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

An enhancement is recommended due to two written NOVs with same violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 11-Dec-2007 Respondent City of Childress Case ID No. 35088 Reg. Ent. Reference No. RN101612521 Media [Statute] Water Quality Enf. Coordinator Andrew Hunt Violation Number 1	Docket No. 2007-1932-MWD-E PCW <small>Policy Revision 2 (September 2002) PCW Revision November 6, 2007</small>															
Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010076003, Interim Phase Effluent Limitations and Monitoring Requirements																
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Base Penalty \$10,000																
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<div style="border: 1px solid black; padding: 5px;"> A simplified model was used to evaluate BOD5 to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Also, flow was considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors. </div>																
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Final Penalty \$1,000																
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<div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"> Four quarterly events are recommended. </div>																
Economic Benefit (EB) for this violation																
Statutory Limit Test																
Estimated EB Amount \$1,135	Violation Final Penalty Total \$4,844															
This violation Final Assessed Penalty (adjusted for limits) \$4,844																

Economic Benefit Worksheet

Respondent City of Childress
Case ID No. 35088
Reg. Ent. Reference No. RN101612521
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	1-Oct-2006	15-May-2008	1.6	\$54	\$1,081	\$1,135
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to evaluate causes of effluent excursions and to rehabilitate the system. Date Required is first month of non-compliance. Final Date is expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,135

Screening Date 11-Dec-2007

Docket No. 2007-1932-MWD-E

PCW

Respondent City of Childress

Policy Revision 2 (September 2002)

Case ID No. 35088

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101612521

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010076003, Monitoring Requirements No. 5

Violation Description Failed to calibrate the in-line effluent flow meter on an annual basis, as documented during the investigation on October 3, 2007. Specifically, the in-line effluent flow meter has not been calibrated since the September 6, 2006 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

70 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$480

Violation Final Penalty Total \$606

This violation Final Assessed Penalty (adjusted for limits) \$606

Economic Benefit Worksheet

Respondent City of Childress
Case ID No. 35088
Reg. Ent. Reference No. RN101612521
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$500	6-Sep-2006	6-Aug-2007	0.9	\$23	\$458	\$480
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to calibrate the in-line effluent flow meter. The Date Required is the prior investigation. The Final Date is twelve months following the previous investigation.

Approx. Cost of Compliance

\$500

TOTAL

\$480

Compliance History

Customer/Respondent/Owner-Operator: CN600333769 City of Childress Classification: AVERAGE Rating: 2.69
 Regulated Entity: RN101612521 AIRPORT PLANT Classification: AVERAGE Site Rating: 3.00
 ID Number(s): WASTEWATER PERMIT WQ0010076003
 Location: Located within the property boundaries of the Childress Rating Date: 9/1/2007 Repeat Violator: NO
 Municipal Airport approximately 4 miles west of the
 intersection of U.S. Highways 287 and 82/63 in Childress
 County, Texas
 TCEQ Region: REGION 01 - AMARILLO
 Date Compliance History Prepared: November 27, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 27, 2002 to November 27, 2007
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Andrew Hunt Phone: 512-239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 02/06/2004 (261472)
- 2 07/17/2004 (281958)
- 3 02/10/2005 (349419)
- 4 11/02/2006 (511526)
- 5 11/21/2007 (594466)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/06/2004 (261472)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ10076-003

Description: Failure by facility to maintain daily average effluent flow volume within permit limits (0.232 MGD).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ10076-003

Description: Failure by facility to maintain BOD5 effluent within permit limits (100 mg/L single grab).

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT WQ10076-003

Description: Failure by facility to properly maintain flow meters at the facility.

Date: 11/02/2006 (511526)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure by the facility to maintain average daily effluent flow within the permit limits of 0.232 MGD during 8 of the 12 months reviewed. July, 2005 (0.392 MGD); August, 2005 (0.314 MGD); November, 2005 (0.318 MGD); December 2005 (0.468 MGD); February, 2006 (0.304 MGD); April, 2006 (0.362 MGD); May, 2006 (0.284 MGD); June, 2006 (0.293 MGD).

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain BOD5 within permit limits

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF CHILDRESS
RN101612521**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1932-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Childress ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment system located within the property boundaries of the Childress Municipal Airport approximately four miles west of the intersection of U.S. Highways 287 and 82/63 in Childress County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Four Hundred Fifty Dollars (\$5,450) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Four Thousand Three Hundred Sixty Dollars (\$4,360) of the administrative

penalty and One Thousand Ninety Dollars (\$1,090) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010076003, Interim Phase Effluent Limitations and Monitoring Requirements, as documented during the investigation on October 3, 2007. Specifically, the 30-day average effluent flow exceeded the permitted level of 0.232 million gallons per day ("MGD") for the following months: October 2006 (0.297 MGD); November 2006 (0.258 MGD); December 2006 (0.241 MGD); January 2007 (0.235 MGD); February 2007 (0.241 MGD); March 2007 (0.253 MGD); April 2007 (0.251 MGD); May 2007 (0.272 MGD); June 2007 (0.287 MGD); July 2007 (0.267 MGD); and August 2007 (0.277 MGD), respectively. In addition, the 5-day Biochemical Oxygen Demand ("BOD5") levels exceeded the permitted limit of 100 milligrams per Liter ("mg/L") for February 2007 (117 mg/L) and March 2007 (107 mg/L).
2. Failed to calibrate the in-line effluent flow meter on an annual basis, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010076003, Monitoring Requirements No. 5, as documented during the investigation on October 3, 2007. Specifically, the in-line effluent flow meter has not been calibrated since the September 6, 2006 investigation.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Childress, Docket No. 2007-1932-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, calibrate the in-line effluent flow meter in accordance with TPDES Permit No. WQ0010076003; and
 - b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010076003, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be in accordance with Ordering Provision No. 2.c. below; and
 - c. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

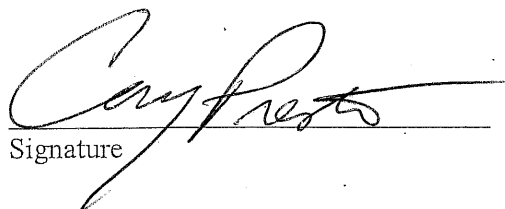
4/30/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

MARCH 5, 2008
Date

CARY PRESTON

Name (Printed or typed)
Authorized Representative of
City of Childress

MAYOR, CITY OF CHILDRESS

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

